

said upper surface of said sections being of soft resilient material and being directly exposed for direct engagement with the foot of the user or a sock or stocking on the foot of the user;

said inner sole including at least 80 of said resilient sections;

said sections being hexagonal in shape and having a linear extent less than $\frac{3}{4}$ inch and being substantially equal to one-half inch; and

said sections being individually mobile and having a height and a width, with the height being sufficient that each section can sway laterally, and with the height being at least substantially equal to or greater than the width thereof.

49. Footgear with pressure relief areas for the foot, comprising:

an outer sole;

an inner sole mounted in said footgear above said outer sole, said inner sole having a plurality of independently vertically movable resilient sections arranged in a grid pattern, said independently vertically movable sections having lower surfaces which are separately removably, mounted within said footgear and said sections having upper surfaces which together form an upper surface for engagement by the foot;

said resilient sections being directly adjacent one another to form said grid; and

said grid of resilient sections extending over substantially all of said inner sole;

said upper surface of said sections being of soft resilient materials and being directly exposed for direct engagement with the foot of the user or a sock or stocking on the foot of the user;

said inner sole including at least 80 of said resilient sections; and

said sections being individually mobile and having a height and a width, with the height being sufficient that each section can sway laterally.

REMARKS

Concerning the Reissue Declaration, we wish to thank the Examiner for postponing the requirement for submission of the Declaration pending finalization of claims.

Regarding the disclosure of the specification relative to the matters raised on page 3 of the Office Action, and other matters referenced hereinbelow, it is convenient to refer to the

issued Patent No. 5,761,834, and a copy of this patent is attached to this amendment for the convenience of the Examiner.

Regarding the limitation of “a heel portion that extends only part way up the heel of and ankle area the user,” attention is respectfully directed to Fig. 3 of the -834 patent, and to Column 6, lines 14 – 16 where the portion 58 of the sole is said to extend up behind the heel of the patient. The rear portion of the frame, shown at the far left in Fig. 2 of the drawings also extends part way up the heel and ankle area of the assembly. In this connection note that the phrase “and ankle area” has been added to claim 35.

Regarding the limitation regarding the “height of said sections being at least equal to the width thereof,” reference is made to column 13, lines 34 – 37 of the -834 patent which provides support for this language. Attention is also directed to the drawings where the sections are shown having a height approximately or substantially equal to or slightly greater than the width of the sections.

Concerning the phrase “closed heel/ankle portion” this construction is shown in the far left showing of Fig. 2 of the drawings. Some walkers have open rear areas, and the limitation referenced in the Office Action is intended to distinguish from this type of footgear.

Concerning claims 33, 36 and 38, these claims have been amended to provide proper antecedent basis for the claim language under consideration.

Concerning the claim 35 rejection on 35USC 112, attention is directed to reference numeral 58 as noted in column 6, lines 14 – 17 of the -834 patent.

Regarding claim 38, attention is directed to column 8, lines 34 – 41 in which this type of material is discussed.

Concerning the objection to claim 39, note column 6, lines 14 et seq. as mentioned above.

Regarding the “closed heel/ankle portion”, mentioned in connection with claims 42 – 44 the basis in the specification for this language has been discussed above. This language refers to both reference numeral 58 material, and to the frame portion that encircles the rear of the heel.

Concerning the Section 112 rejection of claims 42 and 43, and the reference to the footgear surfaces please note Fig. 2 and the specification in column 5, line 66 to column 6, line 8 of the -834 patent. The inner surfaces of these flaps 48 and 50 hold the foot into the footgear.

Regarding claim 46, the word “footgear” has been substituted for “shoe”.

Rejection on Prior Art

Now, turning to the rejections based on 35 USC 103, it is noted that the rejection is based on the Kellerman patent, the Andrews patent and the Moranago patent; and the rejection is specifically worded as being "unpatentable over Kellerman in view of Andrews and Moranago".

First, in considering the Kellerman patent, note in the "Summary of the Invention" section of the Kellerman patent starting at Col. 2, line 24, that Kellerman repeatedly stresses the desirability of a "low coefficient of friction". Specifically, this is included at lines 26, 34, 47, 54, and 60, for examples. Note that Kellerman also states that the material should be "quite hard" (Col. 2, line 54). In order to achieve this low friction sliding action Kellerman uses high density polyethylene (HDPE) which is quite hard.

It is further noted that Kellerman's construction is intended for use with callouses, bunions, heel spurs and the like (Col. 1, lines 16, 17), and not with the ulcers with which the present invention is primarily concerned.

Accordingly, the Kellerman construction is directed to a different problem and uses a different construction.

It is further noted, as set forth in the Declaration of Tracy Grim, that the hard surface of Kellerman would be damaging to and prevent the healing of ulcers.

In the rejection, it is suggested that the Kellerman pad be turned up-side-down, supposedly as suggested by Andrews.

It is respectfully suggested, however, that the rejection is actually using applicant's patent application as a road-map to combine the references.

The Andrews construction includes thin flat cloth covered removable inserts, and mating depressions from which some of these inserts may be removed. One logical combination of Andrews and Kellerman would be to provide the bottom of the Kellerman pads with inserts and depressions from which the inserts may be removed. Another logical modification of Kellerman suggested by Andrews, would be to have the slippery Kellerman top surface provided with recesses or depressions, with inserts fitting into these depressions. Still another possible logical combination would be to provide removable inserts on the bottom of the Andrews pad. A further logical combination of Kellerman and Andrews, would involve using the slippery top layer of Kellerman in place of the cloth top layer of Andrews.

Accordingly, it is only through the teachings provided by applicant, that the proposed combination of references could be made.

It is also noted in passing that the broadening statement of Andrews referenced in the rejections at lines 10 – 13 of Column 2 of Andrews, relates to the provisions of additional depressions, not inserts; and therefore Andrews would always have walls surrounding the inserts, and not an array of only inserts as suggested in the Office Action.

Accordingly it is clear that it is only through “Hindsight” that the proposed combination of references would be achieved.

With regard to the use of “hindsight”, or the use of the applicant’s teachings to combine prior art, the courts have universally condemned such specious combinations and have upheld the validity of patents or claims of patents in which such hindsight was employed to combine the references. Notable among the decisions relating to the subject matter is the decision of the Supreme Court of the United States in the case of Diamond Rubber Co. of New York v. Consolidated Rubber Tire Co., 220 U.S. 428, 31 S. Ct. 444 (1911). In this case the Supreme Court stated “Many things, and the patent law abounds in illustrations, seem obvious after they have been done, and ‘in the light of the accomplished result,’ it is often a matter of wonder how they so long ‘eluded the search of the discoverer and set at defiance the speculations of inventive genius’ . . . Knowledge after the event is always easy, and problems once solved present no difficulties, indeed may be represented as never having had any . . .” *Id.* at 434-35, 31 S. Ct. at 447. The Supreme Court then went on to uphold the patent under consideration.

In a similar vein, the Court of Customs and Patent Appeals stated in the case of In re Kamm and Young, 172 U.S.P.Q. 298 (C.C.P.A. 1972), that the basic mandate inherent in 35 U.S.C. § 103 is that piecemeal reconstruction of prior art patents in the light of applicant’s disclosure shall not be basis for holding of obviousness. Similarly, in the case of Ex Parte Lange, 72 U.S.P.Q. 90, 91 (C.C.P.A. 1947), the Court said, “It seems to use that the Examiner is using appellant’s disclosure for the suggestion of the combination since there is no suggestion in any of the patents for their combination in the manner claimed by applicant. The cases of Ex Parte Myerson, 72 U.S.P.Q. 49 (C.C.P.A. 1946), and Ex Parte Gary, 76 U.S.P.Q. 224 (C.C.P.A. 1947), are to the same effect. Two other cases decided by the C.C.P.A. in which hindsight was condemned are In re Stephens, Wenzel, and Browne. 145 U.S.P.Q. 656 (C.C.P.A. 1965), and In re Leonor, 158 U.S.P.Q. 20 (C.C.P.A. 1968). In the Stephens case, the Court stated that

“References may not be combined indiscriminately and with guidance from applicant’s disclosure to show that claims are unpatentable.” 145 U.S.P.Q. at 657. In the Leonor case, the court dismissed the examiner’s rejection of the claims in suit as “hindsight reconstruction of prior art” and disapproved of the board’s affirmance of that rejection on the basis that it “violates [the] intent and spirit of 35 U.S.C. § 103.” 20 U.S.P.Q. at 20-21. In Leonor, the court said that the issue is “whether teachings of prior art would of themselves, and without benefit of applicant’s disclosure, suggest [a process] which would make claimed invention obvious...” (emphasis court’s). Id. at 21.

The Court of Appeals for the Federal Circuit has been equally strong in its condemnation of “hindsight” or similar rejections. Thus, for example, in ACS Hospital System, Inc. v. Montefiore Hospital, 221 U.S.P.Q. 929 (Fed. Cir. 1984), the Federal Circuit reversed a holding of invalidity because there was no teaching to combine the references. Similarly, the Federal Circuit, in W.L. Gore Associates, Inc. v. Garlock, Inc., 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983), referenced the “insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher, “ and condemned this type of rejection or holding of unpatentability.

In addition to the Andrews and Kellerman patents, a number of claims including claims 33 – 38 and 47 were rejected on these two patents, further in view of the Moronago patent. While the Moranaga sole does have three different resilient layers at the rear thereof, it includes no teaching that it could be used for constructions having the sole cut into many sections. Thus, Moranaga only shows three layers at the rear, not throughout the construction, and has an upper very thin layer extending over the entire surface of the insole. Further, it might well be considered that the cutting or sectioning of a pad having three different materials might not be practical, as cutting even a single resilient material with a blade is difficult because of the tendency of the resilient material to flex rather than cut. Where cutting a single layer of resilient material is difficult, the possibility of cutting three different resilient materials might well be considered impractical, before the teachings of the present invention.

Turning to another aspect of the rejection, where references teach away from invention they cannot serve as a predicate for unobviousness, see McGinley v. Franklin Sports, Inc., 60 USPQ 2d 1001 at p. 1010, and cases cited therein (copy attached).

With regard to the Kellerman and the Andrews patents, it is considered that they both actually teach away from the invention. Thus, Kellerman stresses, over and over, the desirability having a slippery, or very low coefficient of friction upper surface for his inner sole, so that the users foot will slide on the sole as he walks. On the other hand applicants have small inserts of a substantial height, so that they sway to absorb shear forces, without the sliding action which would prevent the healing of fragile ulcers.

Accordingly, in the present case, the references teach away from their combination, and include no suggestions toward their combination as proposed in the Office Action. In this regard, there are many decisions of the Court of Appeals for the Federal Circuit requiring explicit teaching for combining references; and we are attaching a copy of the recent typical decision, McGinley vs. Franklin Sports, Inc., 60 USPQ 2d 1001, in which the Court indicated that when the combination of references teaches away from the invention, the rejection based on a combination of references is improper.

Claims 39, 42 and 43 were rejected as unpatentable over the Grim U.S. Patent No. 5,078,128 in view of the Kellerman and Andrews patents. In considering this rejection, although the Grim patent does disclose the flaps and the heel/ankle portion, there is no teaching in the patent to suggest the desirability of combining with the Andrews and Kellerman references.

It is further noted that many of the claims have now been amended to include the concept of a significant vertical extent of the sections to permit swaying of the sections to accommodate shear stresses, rather than sliding as emphasized by Kellerman. In some claims such as claim 48, for example the height is stated to be "at least substantially equal to or greater than the width thereof". Support for these limitations are found in Fig. 3, Fig. 6, Figs. 8 – 12 and Figs. 26 and 27, as well as in the specification in Column 13.

These limitations provide the advantage of permitting the swaying action which absorbs shear, without interfering with ulcer healing in the relieved areas. No such construction is shown or suggested by Andrews or Kellerman where the removable pieces are thin and flat.

Attention is also directed to new claims 48 and 49 which are new detailed claims generally patterned after claims present in the case but including additional limitations relating to the small size and multiplicity (more than 80) of the sections which contribute to the new result achieved by the present invention. Note also that these new claims call for the upper surface of

the sections to be of soft resilient material, unlike the cloth of Andrews, or the slippery hand material of Kellerman.

Thus, even if Kellerman could be modified by Andrews as suggested (and there are no teachings for such combination), claims such as new claims 48 and 49 have many limitations which are not shown by the combination including (1) height of the sections as specified (2) small size of sections (3) hexagonal shape (4) more than 80 sections and (5) direct exposure of top of sections formed of soft resilient material; with all of these factors combining to produce the new mode of action, where the shear forces are absorbed by the continued engagement of the sole of the foot (or a sock) with the tops of the resilient sections, and swaying of these sections. With this arrangement the delicate ulcerated areas of the bottom of the foot remain untouched and are permitted to heal naturally.

Concerning one more factor about the Andrews patent, the basic disclosed structure of Andrews is a series of five (5) discrete spaced removable inserts extending into depressions. As a broadening statement Andrews states that “the number shape and position of the depressions may be chosen as best suited to the needs of most users”. However, where Andrews would still have depressions, then there would still be walls or full height structure around these depressions. This still does not suggest a full array of removable sections with the sections in immediate engagement with each other, as claimed.

While Kellerman which is “labeled” the basic reference has removable bottom inserts, the main thrust of Kellerman is to provide a slippery stiff upper layer to permit sliding of the feet within the shoes. There is no teaching that would suggest turning the Kellerman structure upside down, except that of applicants.

And the recent decisions of the Court of Appeals for the Federal Circuit have indicated that for a valid combination of references there must be an explanation of the reasons why one of ordinary skill in the art would have been motivated to select references and to combine them. See In re Lee, 61 USPQ2d 1430 (CA FC, 2002), copy attached, and McGinley v. Franklin Sports, Inc., 60 USPQ2d 1001 (CA FC 2001), copy attached.

Here, where there is no teaching for the combinations other than applicant’s disclosure, there is no valid combination or justifiable rejection.

To summarize, the following tabulation is appropriate:

Factual Shortcomings of Rejections

1. None of the references shows inserts of a height to permit swaying of the inserts to absorb shear forces.
2. The Kellerman reference repeatedly stresses the need for a slippery stiff surface so the foot can slide on the insert.
3. The Andrews references only disclose an impractical structure with removable inserts from depressions with raised walls around the depressions.
4. No reference teaches small removable inserts as claimed.
5. No reference teaches a multiplicity (more than 80) removable inserts for directly supporting the foot.

Legal Shortcomings of Rejection

1. The Constitution of the United States (Art. I, Sec. 8, Clause 8) states that the patent system is intended “to promote the progress of the useful arts”. Thus, R&D is to be promoted by freely granting patents to useful and successful inventions; instead of by using far fetched rejections to bar the grant of patents.
2. There is no teaching in any of the patents for this combination. As set forth in detail in the case of In re Lee, 61 USPQ 2d 1430 at p. 1433, “there must be some motivation, suggestion or teaching of the desirability of making the specific combination...”. Objective teachings are required for a valid combination, and no such teachings are present here.
3. The patents relied upon in the rejection actually teach away from the claimed invention. Where references teach away from invention they cannot serve as a predicate for unobviousness, see McGinley v. Franklin Sports, Inc., 60 USPQ 2d 1001 at p. 1010, and cases cited therein (copy attached).
4. The only teachings present are those of applicant, and this use of Hindsight from applicant’s disclosure has been widely condemned, see the cases cited elsewhere in this Request for Reconsideration.

5. There are many claim limitations in the claims as amended, which are not found in any of the cited references. Where these limitations contribute to a new mode of operation of the invention, patentability is clearly present.

Response to Kellerman Being

Basic Reference

In the Office Action, it is stressed that Kellerman is supposed to be the base reference and that arguments against the Andrews patent are not pertinent. In this regard it is respectfully suggested that the Kellerman patent repeatedly stresses the importance of the slippery, low friction nature of engagement between the patient's foot and the insole. It would appear clear that turning the Kellerman patent upside-down as proposed in the Office Actions would be directly contrary to the teachings of the patent. And there are no teachings outside of those of applicants, to suggest any valid combination with the Andrews patent, with its depressions and inserts surrounding by walls, which would anticipate any pending claims.

In conclusion, following a review of the present amendment, a telephone interview would be greatly appreciated, if the claims are not now considered to be in condition for allowance. Applicant's attorney would prefer a personal interview with the Examiner, but is located in Los Angeles so that a personal interview is not practical. Accordingly, a comparable telephone interview would be appreciated if the application is not considered allowable. Thank you.

The cooperation of the Patent Examiner is respectfully solicited in this case. It is believed that the mode of operation of the present invention is significantly different from that of the references, with the swaying action of the small sections with significant height accommodating shear stresses and protecting fragile ulcer healing. If the Examiner has any suggestions for claim language which would be acceptable, we would greatly appreciate receiving them.

It is also noted that, following allowance of any of the new claims, applicant will promptly file the Declaration or Declarations relative to these claims.

In conclusion, an early Notice of Allowance is solicited.

Respectfully submitted,



Alan C. Rose, Reg. 17,047
Attorney for Applicant

OPPENHEIMER WOLFF & DONNELLY LLP

2029 Century Park East, 38th Floor

Los Angeles, CA 90067-3024

Telephone: 310/788-5000

Facsimile: 310/277-1297

Attached: U.S. Patent No. 5,761,834

Decisions (1) In re Lee and (2) McGinley v. Franklin Sports, Inc.

Second Supplemental Declaration of Tracy Grim

(both as signed and with a bolder format)

ADDENDUM PAGES

33. Footgear with pressure relief areas for the foot, said footgear having a sole area extending substantially for the entire area underlying the foot of a user comprising:

an outer sole;

an inner sole extending substantially over the entire sole area mounted in said footgear above said outer sole, said inner sole having a plurality of independently vertically movable resilient sections arranged in a grid pattern, said independently vertically movable resilient sections having lower surfaces which are mounted within said footgear and said sections together form a substantially smooth surface for engagement by the foot;

means for independently modifying support of the foot provided at each section location;

said resilient sections being directly adjacent one another to form said grid; and

said grid of resilient sections comprising substantially all of said inner sole and extending over substantially all of said sole area;

wherein said resilient sections each comprise at least three layers of progressively different softness and resiliency, with the softest and most resilient layer being closest to the foot[.]; and

said resilient sections having a substantial vertical extent or height, with the height being sufficient that each section can sway laterally thereby reducing shear forces on the lower surface of a patient's foot.

34. Footgear as defined in claim 33 wherein said footgear is a shoe.

35. (Amended) Footgear as defined in claim 33 wherein said footgear further comprises a heel portion that extends [only] partially up the heel and ankle area of the user.

36. Footgear with pressure relief areas for the foot, said footgear having a sole area extending substantially for the entire area underlying the foot of a user, comprising:

an outer sole,

an inner sole extending substantially over the entire sole area mounted in said footgear above said outer sole, said inner sole having a plurality of removable resilient sections that are removable mounted in said footgear and that are arranged in a grid pattern said removable sections having lower surfaces which are removable secured within said footgear and said sections together forming a substantially smooth surface for engagement by the foot said sections

being individually removable from said footgear to provide localized relief to selected areas of the foot;

said resilient sections being directly adjacent to one another to form said grid, with substantially no space in between said sections except when at least one of said sections has been removed; [and]

said grid of resilient sections comprising substantially all of said inner sole and extending substantially over the entire sole area;

wherein said resilient sections each comprise at least three layers of progressively different softness and resiliency, with the softest and most resilient layer being closest to the foot[.]; and

said resilient sections having a substantial vertical extent or height, with the height being sufficient that each section can sway laterally thereby reducing shear forces on the lower surface of a patient's foot.

37. (Twice Amended) A pad for footgear with pressure relief areas for the foot, said pad having a sole area extending for substantially the entire area underlying the foot of a user, comprising:

an underlying flexible sheet and an upper resilient inner sole member extending over and being removably secured to said underlying flexible sheet, said upper resilient inner sole member having a substantially uniform thickness and extending substantially over the entire sole area;

said upper resilient inner sole portion being composed of a plurality of resilient sections, said sections being removably secured on their lower surfaces to said underlying flexible sheet and said sections together forming a substantially smooth surface for engagement by the foot, said sections being individually removable to provide localized pressure relief to selected areas of the foot; [and]

wherein said resilient sections each comprise at least three layers of progressively different softness and resiliency, with the softest and most resilient layer being closest to the foot;

whereby a relief zone corresponding to an afflicted zone of a foot is provided when one or more of said sections is removed[.]; and

said resilient sections having a substantial vertical extent or height, with the height being sufficient that each section can sway laterally thereby reducing shear forces on the lower surface of a patient's foot.

38. Footgear with pressure relief areas for the foot, said footgear having a sole area extending substantially for the entire area underlying the foot of a user comprising:

an outer sole;

an inner sole extending substantially over the entire sole area mounted in said footgear above said outer sole, said inner sole having a plurality of independently vertically movable resilient sections arranged in a grid pattern, said independently vertically movable sections having lower surfaces which are mounted within said footgear and said sections together form a substantially smooth surface for engagement by the foot;

means for independently modifying support of the foot provided at each section location;
said resilient sections being directly adjacent one another to form said grid; [and]

said grid of resilient sections comprising substantially all of said inner sole and extending over substantially all of said sole area;

wherein said resilient sections comprise a material that resists compression-set[.]; and
said resilient sections having a substantial vertical extent or height, with the height being sufficient that each section can sway laterally thereby reducing shear forces on the lower surface of a patient's foot.

39. Footgear with pressure relief areas for the foot, comprising:

an outer sole;

an inner sole mounted in said footgear above said outer sole, said inner sole having a plurality of independently vertically movable resilient sections arranged in a grid pattern, said independently vertically movable sections having lower surfaces which are separately removably mounted within said footgear, and said sections having upper surfaces which together form a substantially continuous upper surface for engagement by the foot;

said resilient sections being directly adjacent one another to form said grid; and

said grid of resilient sections extending over substantially all of said inner sole;

said sections having a height and width, with the height of said sections being at least equal to the width thereof, to permit swaying of said sections, thereby reducing shear forces on the lower surface of the foot;

said footgear having a heel/ankle portion that extends only part way up the heel and ankle area of the user;

said footgear including flaps for holding the foot into the footgear, said flaps extending over at least a portion of the upper surface of the foot from both sides of the foot;

arrangements for holding said flaps together to hold the user's foot into the footgear;

said flaps leaving an opening at the front of the footgear so that the toes of the user may extend out beyond the flaps while still resting on said inner sole; [and]

said upper surface of said sections being directly exposed for direct engagement with the foot of the user or a sock or stocking on the foot of the user[.]; and

said resilient sections having a substantial vertical extent or height, with the height being sufficient that each section can sway laterally thereby reducing shear forces on the lower surface of a patient's foot.

40. Footgear with pressure relief areas for the foot as defined in claim 39 wherein said inner sole includes an underlying flexible sheet to which said sections are removably secured; and said sections being secured to said sheet, and said inner sole being secured into said shoe by hook and loop type fastening arrangements.

41. Footgear with pressure relief areas for the foot as defined in claim 39 wherein said sections are softer and more resilient adjacent said upper surface as compared with the lower portion of said sections adjacent said lower surfaces.

42. Footgear with pressure relief areas for the foot, comprising:

an outer sole;

an inner sole mounted in said footgear above said outer sole, said inner sole having a plurality of independently vertically movable resilient sections arranged in a grid pattern, said independently vertically movable sections having lower surfaces which are separately removably mounted within said footgear and said sections having upper surfaces which together form an upper surface for engagement by the foot;

said resilient sections being directly adjacent one another to form said grid; and

said grid of resilient sections extending over substantially all of said inner sole;

said sections having a height and width, with the height of said sections being at least equal to the width thereof, to permit swaying of said sections, thereby reducing shear forces on the lower surface of the foot;

said footgear having a closed heel/ankle portion;

said footgear including upper footgear surfaces for holding the foot into the footgear, said upper footgear surfaces extending over at least a portion of the upper surface of the foot from both sides of the foot; and

said upper surface of said resilient sections being directly exposed for direct engagement with the foot of the user or a sock or stocking on the foot of the user.

43. Footgear with pressure relief areas for the foot, comprising:

an outer sole;

an inner sole mounted in said footgear above said outer sole, said inner sole having a plurality of independently vertically movable resilient sections arranged in a grid pattern, said independently vertically movable sections having lower surfaces which are separately removably mounted within said footgear, and said sections having upper surfaces which together form an upper surface for engagement by the foot;

said resilient sections being directly adjacent one another to form said grid; and

said grid of resilient sections extending over substantially all of said inner sole;

said footgear having a closed heel/ankle portion;

said footgear including upper footgear surfaces for holding the foot into the footgear, said upper footgear surfaces extending over at least a portion of the upper surface of the foot from both sides of the foot; [and]

arrangements for holding said upper footgear surfaces together to hold the user's foot into the footgear;

said upper surface of said resilient sections being directly exposed for direct engagement with the foot of the user or a sock or stocking on the foot of the user[.]; and

said resilient sections having a substantial vertical extent or height, with the height being sufficient that each section can sway laterally thereby reducing shear forces on the lower surface of a patient's foot.

44. Footgear with pressure relief areas for the foot, comprising:

an outer sole;

an inner sole mounted in said footgear above said outer sole, said inner sole having a plurality of independently vertically movable resilient sections arranged in a grid pattern, said independently vertically movable sections having lower surfaces which are separately removably

mounted within said footgear, and said sections having upper surfaces which together form an upper surface for engagement by the foot;

said resilient sections being directly adjacent one another to form said grid; and

said grid of resilient sections extending over substantially all of said inner sole;

said footgear having a closed heel/ankle portion; and

said sections having a height and width, with the height of said sections being at least equal to the width thereof, to permit swaying of said sections, thereby reducing shear forces on the lower surface of the foot;

said upper surface of said sections being directly exposed for direct engagement with the foot of the user or a sock or stocking on the foot of the user.

45. Footgear with pressure relief areas for the foot, comprising:

an outer sole;

an inner sole mounted in said footgear above said outer sole, said inner sole having a plurality of independently vertically movable resilient sections arranged in a grid pattern, said independently vertically movable sections having lower surfaces which are separately removably, mounted within said footgear and said sections having upper surfaces which together form an upper surface for engagement by the foot;

said resilient sections being directly adjacent one another to form said grid; and

said grid of resilient sections extending over substantially all of said inner sole;

said upper surface of said sections being directly exposed for direct engagement with the foot of the user or a sock or stocking on the foot of the user[.]; and

said resilient sections having a substantial vertical extent or height, with the height being sufficient that each section can sway laterally thereby reducing shear forces on the lower surface of the foot.

46. Footgear with pressure relief areas for the foot as defined in claim 45 wherein said inner sole includes an underlying flexible sheet to which said sections are removably secured; and said sections being secured to said sheet, and said inner sole being secured into said [shoe] footgear by hook and loop type fastening arrangements.

47. Footgear with pressure relief areas for the foot as defined in claim 45 wherein said sections are softer and more resilient adjacent said upper surface as compared with the lower portion of said sections adjacent said lower surfaces.

Please add the following new claims:

48. Footgear with pressure relief areas for the foot, comprising:

an outer sole;

an inner sole mounted in said footgear above said outer sole, said inner sole having a plurality of independently vertically movable resilient sections arranged in a grid pattern, said independently vertically movable sections having lower surfaces which are separately removably mounted within said footgear and said sections having upper surfaces which together form an upper surface for engagement by the foot;

said resilient sections being directly adjacent one another to form said grid; and

said grid of resilient sections extending over substantially all of said inner sole;

said upper surface of said sections being of soft resilient material and being directly exposed for direct engagement with the foot of the user or a sock or stocking on the foot of the user;

said inner sole including at least 80 of said resilient sections;

said sections being hexagonal in shape and having a linear extent less than $\frac{3}{4}$ inch and being substantially equal to one-half inch; and

said sections being individually mobile and having a height and a width, with the height being sufficient that each section can sway laterally, and with the height being at least substantially equal to or greater than the width thereof.

49. Footgear with pressure relief areas for the foot, comprising:

an outer sole;

an inner sole mounted in said footgear above said outer sole, said inner sole having a plurality of independently vertically movable resilient sections arranged in a grid pattern, said independently vertically movable sections having lower surfaces which are separately removably mounted within said footgear and said sections having upper surfaces which together form an upper surface for engagement by the foot;

said resilient sections being directly adjacent one another to form said grid; and

said grid of resilient sections extending over substantially all of said inner sole;

said upper surface of said sections being of soft resilient materials and being directly exposed for direct engagement with the foot of the user or a sock or stocking on the foot of the user;

said inner sole including at least 80 of said resilient sections; and

said sections being individually mobile and having a height and a width, with the height being sufficient that each section can sway laterally.